WPMS No. 194 of 2001

Hon. P.C. Verma, J.

This petition has been filed challenging the order dated 6.2.2001 passed in execution proceeding pending against the petitioner.

The counsel made against the petitioner under section 18 of the Land Acquisition Act is being executed against the petitioner. According to it, the petitioner is liable to pay the compensation.

The learned counsel for the petitioner submits that he has filed first appeal against the order of 1st A.D.J. who enhanced the compensation awarded by the collector and in the appeal, he has moved an application for interim relief, while the State of Uttaranchal is not carved out. The said appeal is pending but interim relief application is pending disposal after the Creation of this High Court. The records has not been received by this court, therefore, he is unable to press this application. The date fixed in execution case is 8.3.2001.

A petition under Article 226 cannot be entertained while appeal is pending. However, the learned counsel for the petitioner submits that this petition may be treated as an application under first appeal No. 476 of 2000 in this application the date fixed in the execution is 8.3.2001 may be deferred so that the petitioner may pursue his case for interim relief pending in the

first appeal after the receipt of the record by this court.

The writ petition is converted into application under the aforesaid first appeal and it is provided that the date fixed in execution case i.e. 8.3.2001 shall be adjoined to some other date provided the petitioner deposits 80% of the Compensation awarded by the learned 1st Additional District Judge with the executing court by tomorrow.

With the aforesaid observation the application is disposed of.

7-3-2001

(P.C. Verma, J.)